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VIA HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street, S.W. TW B-204  
Washington, D.C. 20554

Re: *Application of SBC Communications, Inc.: Joint Reply Comments of  
ALTS and the CLEC Coalition, CC Docket No. 00-4*

Dear Secretary Salas,

ALTS and the CLEC Coalition ("Joint Commenters") are filing two versions of their Reply Comments in the above referenced docket. The Joint Commenters are submitting an original and two copies of a Redacted – for Public Inspection version of its filing as well as one copy of the portion of its Reply Comments that contain confidential information. The confidential information is marked Confidential – Not for Public Inspection and should be treated accordingly. Please date stamp the extra copies of each submission and return it to the courier. If you have any questions, please contact the undersigned at (202) 955-9600.

Respectfully submitted,



Ross A. Buntrock

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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**In the Matter of**

Application by SBC Communications Inc., )  
Southwestern Bell Telephone Company, and )  
Southwestern Bell Communications Services, ) CC Docket No. 00-4  
Inc. d/b/a Southwestern Bell Long Distance )  
for Provision of In-Region, InterLATA )  
Services in Texas )

**JOINT REPLY COMMENTS OF ALTS AND THE CLEC COALITION<sup>1</sup>**

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February 22, 2000

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<sup>1</sup> For purposes of these comments, the members of the CLEC Coalition are Birch Telecom, Inc., ICG Communications, Inc., NEXTLINK Texas, Inc., and Time Warner Telecom, L.P. Each of these CLECs actively participated in Project No. 16251 before the Public Utility Commission of Texas.

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**In the Matter of**

Application by SBC Communications Inc.,	)	
Southwestern Bell Telephone Company, and	)	
Southwestern Bell Communications Services,	)	CC Docket No. 00-04
Inc. d/b/a Southwestern Bell Long Distance	)	
for Provision of In-Region, InterLATA	)	
Services in Texas	)	

**JOINT REPLY COMMENTS OF ALTS AND THE CLEC COALITION**

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### **INTRODUCTION AND SUMMARY**

The Department of Justice (“DOJ”) is correct in its assessment that Southwestern Bell Telephone Company’s (“SWBT”) Application shows substantial progress in the development of local competition in Texas.<sup>2</sup> It is undeniable that the local exchange market in Texas is considerably more open than it was two years ago, when SWBT first filed its draft Application with the Public Utility Commission of Texas (“TPUC”). Through the dedication and commitment of the TPUC and its staff, and the significant efforts of many Texas CLECs, most of the steps necessary to implement the section 271 checklist have been taken. Under the federal Telecommunications Act of 1996 (“FTA” or “Act”), however, the burden is on SWBT, not other parties, to ensure that its local market is irreversibly open to competition.<sup>3</sup>

Although it came close, SWBT did not fully meet the fourteen-point checklist before filing its Application for in-region, interLATA authority in several very critical areas. The record before this Commission establishes that SWBT’s Application suffers from discrete, serious failures to implement all the FTA’s competitive checklist items, including the nondiscriminatory provision of interconnection trunking, access network elements – OSS, and unbundled loops, among other checklist items. SWBT’s shortcomings, as detailed herein and in the initial comments filed by ALTS, the CLEC Coalition, other CLECs, and the DOJ demonstrate why SWBT’s Application must be rejected.

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<sup>2</sup> DOJ Evaluation at p. 1. The DOJ’s evaluation of SWBT’s Application is fair-minded and even-handed. More importantly, the DOJ’s recommendation is consistent with the substance and spirit of the Federal Telecommunications Act of 1996 and this Commission’s Bell Atlantic New York Order and other Commission 271 orders.

<sup>3</sup> Memorandum Opinion and Order *Application by Bell Atlantic New York for Authorization under Section 271 of the Communications Act to Provide In-Region InterLATA Services in The State of New York*, CC Docket No. 99-295, FCC 99-404 (rel. Dec. 22, 1999) at ¶ 44 (“Bell Atlantic New York Order”).

SWBT's Application fails to provide sufficient evidence that its network and operational systems are capable of supporting any significant level of competition in the Texas local exchange market, now or in the immediate future. In certain critical areas it appears that SWBT's Operations Support Systems ("OSS") are not even designed to provide CLECs with the same level of performance as SWBT provides to its retail divisions. Unfortunately, the limited nature of the testing of SWBT's OSS makes it impossible to document the true extent of CLECs' problems with SWBT's support systems. Telcordia failed to evaluate SWBT's back-end systems, properly review SWBT's documentation, and evaluate SWBT's manual processes. In addition, Telcordia failed to conduct root cause analysis of many of the problems that both CLECs and Telcordia identified.

These failures are a significant shortcoming given that even Telcordia observed that use of SWBT's OSS by CLECs frequently results in extremely high levels of manual processing and manual rejects. The lack of mechanized flow-through of orders and reliance on manual processing discriminates against CLECs in violation of Checklist Item (ii). SWBT's systems result in reject notices being returned late, and orders that are already significantly delayed due to manual rejection are further delayed due to the manual processing required to correct them, even when SWBT is the sole cause of the problem. SWBT's current level of manual processing of orders increases the number of erroneous rejects sent by SWBT and undermines SWBT's ability to timely and properly handle orders at commercial volumes. Moreover, because many of these rejects are not processed in a systematic manner, following specific guidelines, the reasons for the rejects are so unclear that CLECs and SWBT are virtually precluded from determining the root cause.

Moreover, as recognized by the DOJ, SWBT's inability to adequately provision hot cuts consistent with the requirements of Checklist Item (iv) provides an additional basis for rejection of SWBT's Application. Numerous CLECs have documented SWBT's hot cut problems.<sup>4</sup> SWBT has not and cannot prove that, as of the time of its filing,<sup>5</sup> it has resolved the significant and systemic problems in its ordering and provisioning systems, as described by the many different parties filing comments. Without such proof, the Commission cannot reasonably find that the Texas market is irreversibly open to competition. Despite the presence of many committed, experienced CLECs in Texas, competition in Texas will never flourish if CLECs

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<sup>4</sup> See, NEXTLINK Barron Affidavit at ¶¶ 26-28; ICG Communications Rowling Affidavit at ¶¶ 23-24; CapRock Communications Thompson Affidavit at ¶¶ 18-21; and AT&T Comments at pp. 28-40.

<sup>5</sup> Since its January 10, 2000 filing, SWBT has submitted over 2,000 pages of *ex parte* filings in an inappropriate attempt to bolster the record and correct deficiencies in its Application. This "moving target" record significantly increases the burdens on the Commission and parties to fully analyze all of the *ex parte* submissions and respond to SWBT's Application. Consistent with its prior 271 orders, the Commission should only consider the facts that existed as of the date of SWBT's filing. To do otherwise would set a very dangerous precedent for future 271 applications.

cannot count on obtaining nondiscriminatory access to SWBT's interconnection trunks, network  
- OSS, and unbundled loops, in a reliable, consistent manner. The FTA requires nothing less.



**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of**

<b>Application by SBC Communications Inc.,</b>	)	
<b>Southwestern Bell Telephone Company, and</b>	)	
<b>Southwestern Bell Communications Services,</b>	)	<b>CC Docket No. 00-04</b>
<b>Inc. d/b/a Southwestern Bell Long Distance</b>	)	
<b>for Provision of In-Region, InterLATA</b>	)	
<b>Services in Texas</b>	)	

**JOINT REPLY COMMENTS OF ALTS AND THE CLEC COALITION**

The CLECs that filed comments on SWBT's 271 Application are unanimous in their belief that the Application is premature and incomplete. SWBT's Application does not provide sufficient evidence that all items on the 271 Checklist are satisfied and that the Texas market is irreversibly open to competition. The Commission's order granting Bell Atlantic – New York's application confirmed the standards that SWBT's Application must meet. SWBT has met many standards and is close to meeting most others, but it is not there yet. SWBT's Application must be denied.

**I. SWBT Does Not Provide Nondiscriminatory Access to Interconnection Trunks, as Required by Checklist Item (i).**

The ability to obtain interconnection trunks on a reasonable and timely basis is critically important to CLECs.<sup>6</sup> The comments filed by the Department of Justice ("DOJ"), e.spire Communications, Inc., COMPTTEL, NTS Communications, and CapRock Communications, as

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<sup>6</sup> DOJ Evaluation at p. 44.

well as those of ALTS and the CLEC Coalition, demonstrate the problems that CLECs have experienced in obtaining interconnection trunks from SWBT in Texas.

As noted in the Time Warner Telecom, L.P. (“TWTC”) affidavit of Kelsi Reeves, if CLECs are not able to continue to expand their interconnection and trunking arrangements *in a timely manner to meet customer demand*, competition will not be able to survive.<sup>7</sup> Nondiscriminatory access to interconnection trunks is essential to CLECs’ abilities to expand their service offerings and “grow” their local phone business. However, in the more than three years in which TWTC and SWBT have been provisioning interconnection trunks between their networks, TWTC has experienced repeated difficulties in obtaining interconnection trunks in a timely manner and in sufficient quantities to support its business.<sup>8</sup> These trunking problems have caused TWTC customers to experience an unreasonable amount of blockage for extended periods of time and has also caused TWTC to turn away business and to limit its marketing efforts because it could not afford to add new customers where it knew the lack of trunking capacity would result in inferior service.<sup>9</sup>

In early 1998, TWTC was experiencing an unusually high level of blocking in its Austin market and repeatedly issued Trunk Group Service Requests (TGSRs) requesting that SWBT augment the trunk groups that were blocking.<sup>10</sup> These requests were continually ignored by SWBT and only when the situation became the subject of TPUC concern during the TPUC’s 271

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<sup>7</sup> TWTC Reeves Affidavit at ¶ 13.

<sup>8</sup> *Id.* at ¶ 14.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at ¶ 15.

hearing did SWBT begin to take responsive actions to alleviate the blocking. As a result, TWTC's primary reason for participating in the collaborative process in Texas was to help establish performance measures that would monitor SWBT's performance and ensure that monetary penalties for non-compliance would be imposed.<sup>11</sup>

During most of 1999, TWTC had great difficulty in obtaining sufficient trunking to keep up with its growth and convert to two-way trunking. SWBT's policy of provisioning only 8 T-1s per day and its insistence on establishing trunks at the end office and limiting or refusing TWTC's attempts to establish tandem trunks caused a crisis environment. Although SWBT sometimes agreed to increase the trunk limit and allow TWTC to order more than 8 T-1s per day, its standard policy was not to allow TWTC to augment its tandem trunks *unless the network was experiencing blocking*. Similarly, e.spire Communications found that even in instances where e.spire demonstrated that it was experiencing blockage and an inability to serve new customers, e.spire was given only a fraction of the capacity that it requested.<sup>12</sup> Another CLEC, NTS Communications, had *all* of its December 1999 trunk orders in Amarillo held for a lack of facilities.<sup>13</sup> CapRock Communications has also experienced delays in obtaining interconnection trunks from SWBT.<sup>14</sup> Unfortunately, as noted by the DOJ and discussed below, the performance data recently released does not fully capture these problems.<sup>15</sup>

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<sup>11</sup> TWTC had attempted to negotiate performance measures within its interconnection agreement with SWBT but SWBT was unwilling to enter into a voluntary agreement that included such standards. At the time, SWBT was also unwilling to allow CLECs to adopt the measures and penalties approved as part of the AT&T/SWBT mega-arbitration. TWTC Reeves Affidavit at ¶ 16.

<sup>12</sup> e.spire Wong Affidavit at ¶ 14.

<sup>13</sup> NTS Elliott Affidavit at ¶ 16.

<sup>14</sup> CapRock Thompson Affidavit at ¶¶ 8-17.

During the collaborative process, TWTC committed considerable resources towards assisting SWBT and the TPUC with designing measures to capture SWBT's performance. While the CLECs agreed that SWBT should not be held accountable for poor performance that was beyond its ability to prevent, *e.g.*, a CLEC's failure to properly forecast or order additional capacity, it was critical that SWBT's sub-par performance be accurately captured and reflected in the performance data. Unfortunately, SWBT's Application shows that it is trying to shift the blame for its poor performance in the Houston market to a CLEC, *i.e.*, TWTC.

Just prior to the November 16, 1999, TPUC Open Meeting, TWTC learned that SWBT was attempting to have TWTC data removed in order to obtain the TPUC's favorable recommendation.<sup>16</sup> SWBT provided a number of different explanations as to why SWBT believed the data should be excluded, but TWTC has never been provided with an explanation consisting of enough detail to be verified. Because TWTC does not have performance measurements in its current negotiated interconnection agreement, the exclusion of this data has no direct effect on TWTC, *i.e.*, TWTC is not eligible to receive performance penalties. However, exclusion of the Houston data has tremendous impact on SWBT's Application for interLATA relief. Only by excluding TWTC's data can SWBT represent to this Commission that its trunking performance meets the required standards. Between July and October 1999, TWTC Houston experienced significant blocking in Houston. At one point, blocking occurred on TWTC's trunks every day for five continuous weeks. During this time TWTC was trying to get more tandem trunks and more T-1s provisioned per day. SWBT occasionally cooperated by not enforcing its policies but its failure to respond immediately and consistently prolonged the

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<sup>15</sup> DOJ Evaluation at p. 47.

blocking and left TWTC with no assurance that the situation would not occur again, and if it did, that it could be addressed in a timely manner. Considering TWTC's continuing efforts to obtain additional trunking, SWBT's explanation that the blocking in Houston occurred because TWTC failed to order a sufficient number of trunks is simply absurd. Moreover, TWTC still has no enforceable assurance that it will be able to obtain sufficient trunking quantities in the future nor do the performance measures capture this reality.

TWTC acknowledged that it shares some of the responsibility for the trunking problems and has always been willing to have performance data eliminated from consideration where the problems were caused by TWTC.<sup>17</sup> However, TWTC strongly believes that had it been able to order tandem trunks in the quantity it requested when it requested them, most of these problems could have been avoided and the crisis situation that overburdened both companies could have been prevented.<sup>18</sup>

In order to ensure nondiscriminatory access to interconnection trunks, it is essential that the performance measurements relied upon by regulators and CLECs truly reflect SWBT's actual performance. By monitoring Telecordia's test of SWBT's OSS implementation, CLECs became aware of several problems with the way SWBT collects data for the trunking measures. First, SWBT excludes data from the measures if, according to SWBT, the data was exempt from penalties based on the exemptions built into the business rules. SWBT excludes this data *without identifying it to the CLECs*. All blocking should be reflected in the reports and SWBT should notify CLECs of data that it is excluding, along with the reasons the data is excluded in order to

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<sup>16</sup> TWTC Reeves Affidavit at ¶ 29.

<sup>17</sup> *Id.* at ¶ 26.

<sup>18</sup> *Id.*

verify that the exclusions are applied correctly. ALTS and the CLEC Coalition also disagree with the way SWBT collects this data. SWBT measures blocking by looking at one busy hour during one week each month. This method of measuring blocking does not even come close to accurately capturing all blocking occurrences.

Second, SWBT has interpreted an exclusion to PM No. 70 to exclude data if a CLEC's actual traffic usage was more than 25% over its most recent forecast as applying on a disaggregated basis, *i.e.*, if a CLEC's traffic to an individual trunk group exceeded 25% of the most recent forecast. No carrier, however, has enough data to accurately predict the calling patterns of future customers. While it is possible to forecast traffic on a macro basis, it is not possible to forecast at the micro level with the same degree of accuracy. The business rule for PM No. 70 does not state that the 25% exclusion applies on the end office "micro" level, however, that is how SWBT interprets it despite CLECs' understanding that the exclusion applied to the total forecast. It is critical, therefore, to determine how this exclusion is applied. The only fair way to apply the standard is to have it apply on a macro level, or require SWBT to accept and respond to quarterly forecasts that allow CLECs to accurately forecast to the micro level as it obtains the data that provides this information.

Third, the performance measure for missed due dates does not capture due dates that were missed because of SWBT's lack of facilities. If a CLEC places orders that are within the quantities forecasted but SWBT does not have facilities, the orders are put into held status and the due date is not set until SWBT has facilities. These orders should be captured as missed due dates. The new interim measurement No. 73.1 will only penalize SWBT if it cannot provision the trunk orders within *101 days*, and does not recognize that this far exceeds the 20 business days in which SWBT is required to provision trunk orders. PM 73.1 should be revised to

eliminate the additional 90 days by which SWBT is allowed to miss a due date due to lack of facilities without showing poor performance. Without this change, SWBT could miss every due date for over three months and not appear to be out of compliance with PM 73.1.

ALTS and the CLEC Coalition concur with the DOJ's observation that SWBT's reported trunking data do not provide a reliable indication of SWBT's actual performance.<sup>19</sup> If CLECs are to rely on the performance measures to ensure that SWBT continues to operate at the level required by the standards after this Commission grants SWBT interLATA relief, these changes must be made prior to that grant. The changes to PM No. 70 proposed by TWTC will ensure that SWBT is not required to pay penalties if the poor performance is not a result of its own actions. But the change will ensure that all parties, and not just SWBT, are able to validate that the exclusions are applied properly. The proposed change to PM No. 73.1 (eliminating the 90 days) will capture the instances when SWBT is not able to meet a due date because of lack of facilities.

As shown in the TWTC affidavit of Nick Summitt, TWTC can document \$183,700.00 in lost monthly revenue. This is over \$2,204,400.00 in lost revenue in the first year alone. Although SWBT does not pay TWTC performance penalties, if TWTC had been eligible for penalties, SWBT would have paid TWTC a one-time penalty of \$50,000.00.<sup>20</sup> If the fault truly lays with TWTC, the penalty of lost revenue is automatically enforced, with no ability to reduce or "cap" these losses. If SWBT was at fault, the \$50,000.00 in penalties is no match for the harm caused by the failed performance.

Because CLECs are necessarily growing at a fast rate, and because it is impossible to predict with exact accuracy the traffic patterns of future customers on a six months' basis,

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<sup>19</sup> DOJ Evaluation at p. 47.

CLECs should be allowed to amend their forecasts to reflect the actual growth and traffic patterns of their customer base. In order to advance the goal of facilities-based competition, the performance measurements must take into account the construction of facilities. As CLECs enter a market they rely heavily on tandem interconnection. As traffic volumes increase and networks are constructed, direct end-office trunks, not just tandem trunks, should be deployed. Measures for trunking should recognize the fact situation of constructing facilities. If the majority of trunks are destined for the tandem, forecasts are less complicated. At the time the PMs were created, the majority of CLECs, including TWTC, trunked to the tandem and CLECs' forecasts focused on the anticipated need for tandem capacity. If SWBT is going to require forecasts to be accurate to within 25% of the end office "micro" level, SWBT should be required to accept quarterly forecasts, as requested by TWTC.<sup>21</sup> The introduction of competition changes the way telecommunications networks are managed. SWBT must revise its practices that do not recognize these changes.

**II. SWBT Does Not Provide Nondiscriminatory Access to its OSS in Compliance with Checklist Item (ii).**

**A. The Telcordia Testing Study Does Not Support SWBT's Application.**

This Application presents the Commission with a crucial threshold question, the answer to which will greatly impact future 271 applications, as well as SWBT's current pending Application. That is, what should be the proper scope and depth of the testing of an RBOC's operational support systems? ALTS and the CLEC Coalition urge the Commission not to "lower the bar" it reasonably set in the Bell Atlantic New York Order to sanction the less blind, more

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<sup>20</sup> TWTC Summitt Affidavit at ¶ 12.

<sup>21</sup> TWTC Reeves Affidavit at ¶ 31.



narrow, limited testing used in Texas. The record is replete with the shortcomings of the Texas testing. The proper scope and depth of the testing is an issue too critical to new market entrants to allow a less blind, less comprehensive and less independent test than the KPMG test.<sup>22</sup>

The CLEC Coalition agrees with Allegiance Telecom and other parties, including the Department of Justice, that Telcordia's conclusion that SWBT's OSS is commercially ready is *not* supported by the record.<sup>23</sup> While providing some useful evidence of the functionality and capacity of SWBT's OSS, the Telcordia Final Report was severely limited in that it did not address a significant number of issues identified during the test, did not assess the impact that identified problems would have on CLECs, and made little or no effort to investigate the root cause of service-affecting problems.<sup>24</sup> Telcordia did not build an ordering/provisioning interface as KPMG had done, but instead relied upon AT&T's UNE-P and MCI's UNE-L EDI interfaces.<sup>25</sup> The sole use of AT&T's and MCI's interfaces necessarily meant that the interfaces used by most other CLECs in Texas were not properly evaluated.<sup>26</sup>

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<sup>22</sup> Bell Atlantic New York Order at ¶ 100.

<sup>23</sup> Allegiance Telecom determined that because Telcordia never established independence from SWBT, routinely shared its findings with SWBT before doing so with the TPUC and CLECs, and did not independently validate performance measurement data, the Telcordia study is unreliable. Allegiance Comments at p. 9. Unlike the BA-NY filing in which several CLECs, including NEXTLINK, supported Bell Atlantic's Application, there are *no* CLECs in Texas that support the SWBT Texas filing. CLECs filing in opposition include the CLEC Coalition, e.spire, Pilgrim, IP Communications, Covad, Rhythms, NorthPoint, AT&T, MCI WorldCom, BlueStar and CapRock Communications, among others.

<sup>24</sup> DOJ Evaluation at p. 4.

<sup>25</sup> MCI WorldCom Comments at p. 40. The advantage of having the third party tester build its own interface as part of the testing protocol is that it permits the third party tester to independently evaluate problems and to establish the root cause.

<sup>26</sup> DOJ Evaluation at p. 4. Unlike the test in New York, the Telcordia test was not broad enough to test the wholesale support processes for other CLECs with different business plans and market objectives.

In addition, the Master Test Plan was both ill-defined and artificially narrow in scope. Among other reasons, because testing was allowed to begin long before the Master Test Plan was completed, it was not clear to the CLEC participants whether certain critical processes would be evaluated. More importantly, the limited scope of the test essentially assured that manual processes would *not* be evaluated.<sup>27</sup> Telcordia's test of SWBT's operational procedures was superficial because Telcordia "closed" far too many issues prematurely, without root cause analysis and often without adequate resolution. For instance, Telcordia closed Issue Number UL-RT-13, Late Call-Backs from the LSC, without analysis of the root causes or identifying what procedures SWBT needed to implement to solve the problem. Indeed, even when Telcordia observed that SWBT representatives handling such calls had expressly specified a specific time frame for returning calls, but did not follow their own procedures. Telcordia noted that "in several instances the SWBT Representative did not respond in the time frame they had specified and the CLEC then initiated another call to find out the status of the request."<sup>28</sup> Thus, unlike the detailed and open discussions that took place between KPMG and CLECs operating in New York, which exposed and ultimately resolved mission critical problems, many significant

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<sup>27</sup> Telcordia did not conduct analyses of the retail side of SWBT's OSS processes and failed to evaluate the "folders" process, or the splitting of an LSR into three service orders. *Id.* at pp. 43-44; an example that provides enlightening insight into Telcordia's analysis is that in spite of the fact that 11% of one CLEC's UNE-P customers lost dial tone service during cutover, Telcordia suggested that the "next seven steps" would resolve this issue, although the next seven steps did not address UNE-P conversion issues. Moreover, SWBT's performance with regard to UNE-P conversion must be distinguished from the admirable job done by Bell Atlantic and noted by KPMG. TRA Comments at p. 20.

<sup>28</sup> Telcordia Final Report, Attachment A, A-55 to A-57. Telcordia also found that "Similar occurrences were observed during interactions between the LOC [Local Operations Center] and the CLEC." *Id.* at A-57. In spite of observing these problems first hand, Telcordia determined that the status of the issue should be "**Closed No SWBT CHG.**" *See Also*, Comments of TRA discussing the closing of this and other critical issues at pp. 17-18.

issues unearthed during the Telcordia testing were summarily closed without any root cause determination being made.<sup>29</sup>

In sum, almost all commenters have noted the deficiencies in the OSS testing used in Texas and the failure of certain performance measurements to accurately capture SWBT's performance. The CLECs' commercial experiences have revealed significant flaws in the performance measures and testing process, something that was taken into account by KPMG in New York. The DOJ correctly observes that "the defects in SBC's implementation of its performance measures have become apparent only as CLECs have had access to performance reports, and an opportunity to detect inconsistencies between SBC's reports and their own experiences. If SBC had more carefully considered the operational experience of CLECs regarding the performance measurements and processes, whether through Telcordia or otherwise, these defects in SWBT's OSS could have been detected and corrected earlier."<sup>30</sup>

The narrow scope of the Telcordia test simply makes it unreliable as a means of judging the commercial readiness of SWBT's OSS. As the DOJ concluded, Telcordia's review does not provide an adequate basis for determining that presently reported SBC performance data are reliable.<sup>31</sup> The major problems with Telcordia's review and the testing process generally were:

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<sup>29</sup> Most of Telcordia's review of SWBT's OSS focused on calculations addressing a very small subset of performance measures. More importantly, Telcordia's review was based upon an outdated version of the definitions of the business plan. Telcordia explained that while they examined all classes of PMs with at least 10 data entries, they relied on Business Rules Version 1.5. Even when Telcordia needed the information from SWBT to determine which version of the business rules were in effect for each PM for each of the three months of data collection, Telcordia reported that "**SWBT was unable to provide the information.**" Telcordia Final Report at p. 152, 6.4.2.1 (emphasis added.); see also DOJ Evaluation at p. 6, fn 7.

<sup>30</sup> DOJ Evaluation at p. 6, fn 6.

<sup>31</sup> DOJ Evaluation at p. 6.

- The Master Test Plan did not include an evaluation of SWBT's manual processes and its back office systems. As noted by the DOJ, more than half of the UNE-loop orders submitted electronically via EDI or LEX interfaces are manually processed by SBC's LSC.<sup>32</sup>
- The electronic interface used by most CLECs was not tested, *i.e.*, LEX.
- Issues should not have been closed without confirmation that the problem would not occur again. Unlike New York, where KPMG kept testing problem areas until all parties were convinced that the problem would not re-occur, Telcordia "closed" an issue simply because it did not occur during the two-week re-test period. The fact that the issue did not re-occur during the re-test period does *not* mean that the root cause of the problem had been determined and the that the issue was completely and permanently resolved.
- Telcordia did not seek input from CLECs in the open, forward-looking manner conducted by KPMG. Unlike Telcordia, KPMG had frequent communications with the CLECs as it attempted to identify the root cause of a problem and resolve it. This occurred in an open forum where the problems were identified, documented, and discussed by all the parties, not just the RBOC and testing entity.
- The test was "less blind" than the KPMG test because SWBT knew that all orders placed through the EDI interfaces were coming from the test participants owing to the fact that only AT&T and MCIW had operational EDI interfaces.
- The test was "less independent" because Telcordia consistently relied on SWBT for explanations of the problems encountered and most solutions and closed items based purely on the promises of SWBT's subject matter experts to do better the next time.
- The test was "less comprehensive" because Telcordia tested only a small number of the performance measures; provided no information on critical measures like trunking, billing and number portability; did not evaluate SWBT's back end OSS systems; and did not evaluate SWBT's manual processes.<sup>33</sup>
- A record of the meetings and discussions that occurred during the test was not made for the benefit of those who would be evaluating the adequacy of the test and for other CLECs who did not participate in the test.
- The fact that Staff did not permit filings throughout the project made it difficult for the TPUC to be aware of both general and specific concerns CLECs had about the test.

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<sup>32</sup> DOJ Evaluation at p. 37.

<sup>33</sup> *Id.* at p. 6, fn 7.

**B. Critical Problems with Manual Processes.**

As in other states after passage of the 1996 Act, many CLECs in Texas began operating in the local exchange market by reselling SWBT's services or using other strategies until they were able to build or purchase their own facilities. Once facilities-based carriers began operating in Texas, however, it became clear that SWBT's OSS functioned at a level that essentially slowed and, in some instances harmed, market entry. CLEC concerns about ordering and provisioning issues were expressed to SWBT and the TPUC once Docket No. 16251 was initiated to address SWBT's draft Application for in-region, interLATA authority. It is indeed unfortunate that many of the same service-affecting problems raised by facilities-based CLECs almost two years ago are still being discussed today.

Some of the areas identified by the TPUC as significant problems in 1998 were discussed in the TPUC's Comments filed with this Commission on January 31, 2000, and a significant percentage of the problems that currently plague CLECs involve the use of manual processing. Manual processing of orders is not, by itself, the dispositive test of whether SWBT's OSS are inadequate. However, when manual processing is viewed in the context of the problems described by CLECs in the record before the Commission, it is obvious that SWBT's ability to provide the necessary pre-ordering and ordering connectivity, even at low order volumes, is inconsistent and unreliable.<sup>34</sup> Moreover, there is little in the performance data upon which

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<sup>34</sup> Although Telcordia determined that many of the manual activities used to process CLEC queries and orders also affect SWBT's retail operations, certain of SWBT's manual processes ensure that only CLECs will experience the processing errors associated with the manual activity. TRA Comments at p. 18.

SWBT relies in its Application that shows that SWBT will be able to perform at even a minimal level once it has to scale up for commercial volumes.<sup>35</sup>

In its Evaluation, the TPUC identified several problem areas in SWBT's performance that CLECs consider to be indicative of significant, systemic problems. For instance, for PM No. 5, which evaluates the percentage of FOCs returned in "X" hours for percentage of FOCs for Simple Residential and Business, manual processing "UNE-Loop (1-50),"<sup>36</sup> SWBT missed the benchmark three out of the four months.<sup>37</sup> Even for the submeasure which evaluates the percentage of FOCs returned for Switchports-manual, SWBT again was only able to make the benchmark for *one* month, missing the benchmark for September through November 1999.<sup>38</sup> This level of performance is extremely distressing, customer-affecting and symptomatic of serious systemic problems.

SWBT's inability to meet its benchmarks for manually processed orders would not be as critical if not for the fact that SWBT's OSS requires SWBT to heavily rely on manual

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<sup>35</sup> For FOCs returned via EDI October through December 1999, SWBT's performance fell below the benchmark for timeliness of return, with SWBT's performance worse in November and December than in October. DOJ Evaluation at p. 38; see also, NEXTLINK Barron Affidavit at ¶¶ 12-17 and AT&T Comments at p. 64. Further, DSL.NET claims that because performance measures for SWBT's xDSL provisioning were not established until the issuance of the December 1999 Arbitration Award, no meaningful data is available to measure SWBT's performance under these standards. DSL.NET Comments at p. 8.

<sup>36</sup> PM No. 5 calculates the percentage of FOCs returned within a specified time frame from the receipt of a complete and accurate service request to the return of a confirmation notice to the CLEC.

<sup>37</sup> TPUC Evaluation at p. 40. The Texas Commission stated that although this was poor performance, the performance under this measure did not indicate a systemic problem solely because "volumes declined for manual orders." *Id.*

<sup>38</sup> *Id.*

processing.<sup>39</sup> Even at relatively low volumes of orders, SWBT has been unable to perform at a level that does not create serious impediments for CLECs. Because SWBT's OSS are in reality geared toward manually processing most CLEC orders,<sup>40</sup> it is essential to the development of competition in Texas for SWBT's manual processes to function at parity with its retail processes or meet the TPUC's benchmarks.

Indeed, based on SWBT's February 1, 2000, *Ex Parte* filing<sup>41</sup> for PM No. 5 "manual switchports" SWBT missed the benchmarks June through December.<sup>42</sup> This data is applicable to SWBT's five-state region for August through November but is Texas-specific for December. More importantly, according to SWBT's filing, SWBT's performance for this particular submeasure *progressively* worsened from August to November and *significantly* worsened for December.<sup>43</sup> For PM No. 7.1 "Percent Mechanized Completions Returned Within 1 Day of Work Completion" LEX, from May to December SWBT *never* even made the benchmark.<sup>44</sup>

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<sup>39</sup> See, Initial CLEC Coalition Comments at p. 16, discussing the fact that most CLEC orders are in fact processed manually and DOJ Evaluation, pp. 37-38.

<sup>40</sup> See, Comments of AT&T at p. 66.

<sup>41</sup> SWBT filed tracking/chart results, dated February 1, 2000, which describe January to December 1999 performance data for a number of Performance Measures based on its five-state region. December data is supposed to be Texas only. Although SWBT's continued filing of additional *ex parte* submissions essentially makes a review of its Application a moving target, much of the additional *ex parte* information suggests that its OSS are not commercially ready and do not meet the requirements of the statute's checklist items. See also, SWBT's February 7, 2000 *Ex Parte* Submission.

<sup>42</sup> Even for the submeasure evaluating the return of FOCs on a mechanized basis using LEX, SWBT was unable to meet the benchmark standards. For PM No. 5 "Percent FOCs Received within 'x' hours-mechanized LEX," SWBT missed the benchmarks August through November. *Id.* at 271-No. 56.

<sup>43</sup> *Id.* at 271-No. 5f.

<sup>44</sup> *Id.* at 271-No. 7.1. Please note that this SWBT chart only contains results from May 1999 to December 1999.

Although most of the data for this submission is based on SWBT's five-state region, it is indicative of SWBT's Texas performance and, among other things, certainly serves to refute SWBT's contention that it is ready to receive section 271 authority throughout its five-state region.<sup>45</sup>

The poor results provided in SWBT's February 1, 2000, and even in SWBT's February 7, 2000, *Ex Parte* filings are consistent with CLECs' experiences. In addition, the data contained in SWBT's February 8, 2000, *ex parte* filing clearly supports CLEC arguments that the reject rate for CLECs using SWBT interfaces is extremely high and problematic.<sup>46</sup> As evidenced by SWBT's February 8, 2000 filing, on a monthly basis anywhere from 24% to 42% of all CLEC LSRs are rejected. Indeed, for the month of September 1999, for CLEC "D," using EDI, out of 2,347 LSRs submitted, 98% were rejected. In October 1999, of the 334 LSRs submitted by CLEC "C," using EDI, *every* order was rejected. Some CLECs using LEX found that nothing less than 43% of their orders were rejected each month over the four month study period.<sup>47</sup> Unfortunately, what was only hinted at in the Telcordia Report - that some substantial portion of these rejections is directly attributable to SWBT's manual processes and inability to properly

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<sup>45</sup> While SWBT's *ex parte* submissions contain additional information, much of the information may, in fact, be unsupportable once it is reconciled by CLECs. For instance, for PM Nos. 5-17 the performance data submitted by SWBT failed to include 58% of Covad's orders. Based on SWBT's January 14 *ex parte* submission, SWBT has not been "at parity" for PM Nos. 5-17 for five of the six months and performance has deteriorated since September 1999. Covad Comments at pp. 27-28.

<sup>46</sup> See, Initial CLEC Coalition Comments at p. 19; SWBT *Ex Parte* Submission dated February 8, 2000 containing charts describing reject rates and volumes for all CLECs using ED/and LEX interfaces, by carrier, for the months of August through November 1999.

<sup>47</sup> CLEC "E" using LEX found that over the space of four months its rate of rejected LSRs ranged from 42.9% to as high as 57.9%.



staff the LSC - has become all too obvious once even limited information was provided by SWBT.

It is even more troubling that some of SWBT's processes that appear to be automated are, in fact, flawed and ultimately subject to manual processes.<sup>48</sup> For example, SWBT is required to provide Firm Order Commitments ("FOCs") in a timely manner. Performance Measure No. 5 purports to track the timely return of FOCs.<sup>49</sup> However, many of SWBT's electronic FOCs are quickly followed by jeopardy notices that change the due date, indicating that the processes that return a FOC to the CLEC do so before all of SWBT's internal systems are checked on an automated basis.<sup>50</sup> When SWBT's systems conduct checks of downstream databases for criteria such as facilities availability, the FOC is put into "jeopardy" status, rendering the original electronic FOC meaningless.<sup>51</sup>

NEXTLINK's data for January, which captures FOCs returned via the EDI interface shows that 12.76% of initial FOCs were later put into jeopardy status.<sup>52</sup> This means that almost 13% of the time, NEXTLINK must return to its new customer and revise a promised due date because SWBT has changed the date.<sup>53</sup> Not only does this jeopardize NEXTLINK's credibility

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<sup>48</sup> See, Initial Comments of CLEC Coalition at pp. 31-34 and ICG Rowling Affidavit at ¶¶ 24-27.

<sup>49</sup> See, Initial CLEC Coalition Comments at pp. 39-40, regarding questions related to the reliability of this data. Also see, NEXTLINK Barron Affidavit at ¶¶ 11-16.

<sup>50</sup> Attached, NEXTLINK Barron Reply Affidavit at ¶ 3.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at ¶ 6.

<sup>53</sup> *Id.*

with the customer, it also causes costly rework for NEXTLINK and creates additional administrative burdens.<sup>54</sup>

In addition to SWBT's poor performance related to the return of reject and jeopardy notices, SWBT recently imposed a cumbersome manual process regarding the provision of its 2733 records that delays receipt of these records.<sup>55</sup> The delay may be due to shortages in the LSC or unnecessary and inefficient coordination between SWBT's Houston and Dallas offices. In any event, CLECs are now forced to wait a week or more for an accurate hard copy version to arrive by mail.<sup>56</sup>

SWBT's delay in providing a hard copy by fax, or an accurate electronic version, means that CLECs are prevented from providing timely bids to their customers. Because a paper copy of the 2733 is needed to ensure the accuracy of the number of lines and features, often CLECs cannot timely and accurately process customer orders. SWBT's inability to provide an accurate electronic version, or to promptly fax 2733s often requires CLECs to create a bid and then correct the bid sometime later after the hard copy arrives by mail. Thus, SWBT is not providing accurate and timely provision of 2733 records, which are essential for CLECs to properly provide service to their end use customers.<sup>57</sup>

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<sup>54</sup> *Id.*; see also, ICG Rowling Affidavit at ¶ 20.

<sup>55</sup> A 2733 is the report number of a Customer Service Record ("CSR") for customers with more than 100 lines. SWBT discontinued promptly faxing 2733 records to NEXTLINK approximately three weeks ago.

<sup>56</sup> NEXTLINK Barron Affidavit at ¶ 7.

<sup>57</sup> NEXTLINK has even had to have SWBT representatives on the phone with NEXTLINK customers to request a fax copy. If the bid is based on inaccurate information, it may require supplemental orders and further delays. NEXTLINK Barron Affidavit at ¶ 8.